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Rev.Aplw.No.88 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

Review Application No.88 of 2026
against W.P.No.12873 of 2026

Bipin Rajalingam S
11 FOD, jains Nakshatra Flats,
Union Road, Chinna Nolambur,
Chennai-600 095.

Applicant-in-person

Vs

- 1.The Member Secretary
Chennai Metropolitan
Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008.
- 2.Jain Housing and Constructions Ltd
98/99, Habibullah Road, T. Nagar,
Chennai-600 001.
- 3.Jain Nakshatra Flat Owners Association
Rep. by its President,
No.82, Union Road, Chinna Nolumbur,
Chennai 600 095.

Respondents



Rev.Aplw.No.88 of 2026

WEB COPY

PRAYER: Application filed under Order 47 Rule 1 read with Section 114 of the Code of Civil Procedure to review the order dated 07.04.2026 passed in W.P.No.12873 of 2026.

For Applicant(s): Mr.Bipin Rajalingam.S.
(Applicant-in-person)

For Respondent(s): Mrs.P.Veena Suresh
Standing Counsel for R1

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

This review application is filed seeking review of the order dated 7.4.2026 passed in W.P.No.12873 of 2026.

2. For ready reference, the order dated 7.4.2026, which is sought to be reviewed is reproduced hereunder:

"Alleging that the second and third respondents have committed several violations of the planning permission in respect of Jain's Nakshatra Apartments, particularly concerning construction of an unauthorised clubhouse, the petitioner sent representations on 15.5.2025 and 26.12.2025 to the



WEB COPY



Rev.Aplw.No.88 of 2026

first respondent seeking action to lock and seal the said structure. As the said representations did not evoke any response, the present writ petition is filed.

2. The main grievance of the petitioner is that the clubhouse has been constructed in contravention of the planning permission. To bolster the said submission, the petitioner, appearing in person, placed heavy reliance on a reply dated 26.11.2025 received under the Right to Information Act from the Chennai Metropolitan Development Authority which states that "CMDA has not approved club house in the site under reference."

3. In the case on hand, it is admitted that the petitioner is the owner of one of the flats in the said apartments and is also a member of the third respondent/association. The planning permit issued by the Chennai Metropolitan Development Authority is dated 21.7.2006. The petitioner, who owns a flat in the very same apartments, has slept over the matter for nearly 20 years and suddenly woke up from slumber in 2025 and sent representations to the first respondent that the clubhouse has been constructed in violation of the planning permission. It is not stated as to when the clubhouse has been



WEB COPY



Rev.Aplw.No.88 of 2026

constructed and certainly the clubhouse was not constructed overnight and the photographs filed in the typed set show that the building is not newly built.

4. It is trite that the power of the High Court to issue an appropriate writ under Article 226 of the Constitution is discretionary and the High Court in the exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. In the case on hand, despite owning a flat within the same apartments, the petitioner did not take any steps to ascertain whether the clubhouse was constructed with permission or without permission for well-nigh 20 years. We, therefore, do not intend to entertain the writ petition at the instance of the petitioner.

5. The writ petition is, accordingly, dismissed. There shall be no order as to costs.

We make it clear that this order shall not preclude the first respondent from considering the representations of the petitioner in accordance with law."



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3. The review applicant, appearing in person, submitted that this Court, while dismissing the writ petition, observed that there was no reference as to when the club house was constructed, but proceeded on an erroneous assumption that the applicant had purchased the flat about 20 years ago and had been residing therein for more than two decades and had slept over the matter for nearly 20 years. According to the review applicant, the above assumption is factually incorrect. He had purchased the flat on 10.8.2018 and at the time of purchase, he believed that respondents 2 and 3 were acting in compliance with applicable laws and that the first respondent was effectively discharging its statutory duties.

4. The review applicant further submitted that this Court observed that he had relied upon RTI response stating that CMDA has not approved club house in the site under reference. He submits that the said observation is incorrect and his primary reliance was on the building permit issued by the first respondent which does not contemplate or sanction any club house.



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5. The further submission of review applicant is that the issue raised in the writ petition pertains to a continuing and subsisting illegality and, therefore, the question of delay, acquiescence or alleged inaction cannot be determinative, as long as the unauthorised construction continues to exist in violation of statutory provisions.

6. Before analyzing whether the grounds raised by the review applicant fall within the ambit of the power conferred on this Court under Section 114 read with Order 47 Rule 1 of Civil Procedure Code, it is apposite to refer to the scope of review jurisdiction, as enunciated by the Apex Court in a recent judgment in the case of *Malleeswari v. K.Suguna and another*¹, after referring to a catena of decisions, in the following terms:

*"15. It is axiomatic that the right of appeal cannot be assumed unless expressly conferred by the statute or the rules having the force of a statute. The review jurisdiction cannot be assumed unless it is conferred by law on the authority or the Court. Section 114 and Order 47, Rule 1 of CPC deal with the power of review of the courts. **The power of review is***

¹ 2025 INSC 1080



WEB COPY



Rev.Aplw.No.88 of 2026

different from appellate power and is subject to the following limitations to maintain the finality of judicial decisions:

15.1 The review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 of CPC [Meera Bhanja v. Nirmala Kumari Choudhury, (1995) 1 SCC 170].

15.2 Review is not to be confused with appellate powers, which may enable an appellate court to correct all manner of errors committed by the subordinate court [Aribam Tuleshwar Sharma v. Aribam Pishak Sharma, (1979) 4 SCC 389].

15.3 In exercise of the jurisdiction under Order 47 Rule 1 of CPC, it is not permissible for an erroneous decision to be reheard and corrected. A review petition, it must be remembered, has a limited purpose and cannot be allowed to be an appeal in disguise [Parsion Devi v. Sumitri Devi, (1997) 8 SCC 715].

15.4 The power of review can be exercised for the correction of a mistake, but not to substitute a view.



WEB COPY



Rev.Aplw.No.88 of 2026

Such powers can be exercised within the limits specified in the statute governing the exercise of power [Lily Thomas v. Union of India, (2000) 6 SCC 224].

15.5 The review court does not sit in appeal over its own order. A rehearing of the matter is impermissible. It constitutes an exception to the general rule that once a judgment is signed or pronounced, it should not be altered [Inderchand Jain v. Motilal, (2009) 14 SCC 663]. Hence, it is invoked only to prevent a miscarriage of justice or to correct grave and palpable errors [Shivdev Singh v. State of Punjab, AIR (1963) SC 1909].

16. To wit, through a review application, an apparent error of fact or law is intimated to the court, but no extra reasoning is undertaken to explain the said error. The intimation of error at the first blush enables the court to correct apparent errors instead of the higher court correcting such errors. At both the above stages, detailed reasoning is not warranted.

17. Having noticed the distinction between the power of review and appellate power, we restate the power



WEB COPY



Rev.Aplw.No.88 of 2026

and scope of review jurisdiction. Review grounds are summed up as follows:

17.1 The ground of discovery of new and important matter or evidence is a ground available if it is demonstrated that, despite the exercise of due diligence, this evidence was not within their knowledge or could not be produced by the party at the time, the original decree or order was passed.

17.2 **Mistake or error apparent on the face of the record may be invoked if there is something more than a mere error, and it must be the one which is manifest on the face of the record** [Hari Vishnu Kamath v. Syed Ahmad Ishaque, (1955) 1 SCR 1104]. Such an error is a patent error and not a mere wrong decision [T.C. Basappa v. T. Nagappa, AIR (1954) SC 440]. **An error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record** [Satyanarayan Laxminarayan Hegde v. Mallikarjun Bhavanappa Tirumale, AIR (1960) SC 137].



WEB COPY



Rev.Aplw.No.88 of 2026

17.3 Lastly, the phrase 'for any other sufficient reason' means a reason that is sufficient on grounds at least analogous to those specified in the other two categories [Chhajju Ram v. Neki, 1922 SCC OnLine PC 11 and approved in Moran Mar Basselios Catholicos v. Mar Poulouse Athanasius, AIR (1954) SC 526].

18. Courts ought not mix up or overlap one jurisdiction with another jurisdiction..."

[emphasis supplied]

7. Though we have heard the submissions of the review applicant, in the light of the limited power conferred upon Courts exercising review jurisdiction under Section 114 and Order 47 Rule of CPC, as has been held by the Apex Court in the aforesaid decision, we shall now consider the plea raised in the review application bearing in mind the scope of review jurisdiction.

8. According to the review applicant, the observation of this Court that there was no reference as to when the club house was constructed and that he slept over the matter for nearly 20 years is



Rev.Aplw.No.88 of 2026

erroneous and factually incorrect, as he had purchased the flat only on 10.8.2018. Further, the building permission issued by the first respondent does not contemplate any club house.

9. The review applicant himself admits that planning permit issued by the CMDA is dated 21.7.2006. His alleged purchase was on 10.8.2018. The factum about the purchase of the flat in 2018 is not averred in the writ affidavit and, hence, this court reckoned from the date of planning permit. Even if it is calculated from 2018, the review applicant slept over the matter for almost eight years. The said fact, in no way, will alter the decision taken in the writ petition. There is no explanation whatsoever forthcoming from the review applicant as to why he did not take any steps to bring the said facts to the notice of the authorities concerned.

10. As stated supra, in order to seek review, it has to be demonstrated that the order suffers from an apparent error as contemplated under Order 47, Rule 1 of CPC. A decision or order cannot be reviewed merely because it is erroneous. Review proceedings are not appellate proceedings and have to be strictly



Rev.Aplw.No.88 of 2026

confined to the scope and ambit of Order 47, Rule 1 of CPC. The grounds that are raised by the review applicant in this review are not grounds to review the order. The alleged error, which is being pointed out, cannot be established except by a long-drawn process of reasoning on points. This Court exercising review jurisdiction cannot rehear the matter on merits in the absence of there being an apparent error.

For the foregoing discussion, the review application fails and is hereby dismissed. There shall be no order as to costs.

(SUSHRUT ARVIND DHARMADHIKARI, CJ) (G.ARUL MURUGAN,J)
29.06.2026

Index : Yes/No
Neutral Citation : Yes/No
bbr

To:

The Member Secretary
Chennai Metropolitan
Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008.



WEB COPY



Rev.Aplw.No.88 of 2026

THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN,J.

(bbr)

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